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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 16th day of June 1998

B e f o r e

THE HON'BLE MR.JUSTICE CHANDRASHEKARAI AH

W.P.No:34421 of 1997

BETWEEN:

Sri.R.Thulasi Ram, s/o late
T.C.Rathiram, aged 57 years,
No.6, 4th Main road, New
Tharagupet,
Bangalore-560 002.

... Petitioner;

(By Sri. M.N.Pramila)

AND:

1. Bangalore Mahanagara Palike,
by its Commissioner, Corporation
Bldgs. Bangalore.

2. Health Officer,
Chamarajpet Range,
Bangalore Mahanagara Palike,
Bangalore.

... Respondents;

By Sri.K.N.Putte Gowda;

3. N.R. Gururaja Rao, s/o M.Ramarao,
aged about 60 years, r/o No.16,
'Sathik' 4th Main road, New
Tharagupet, Bangalore-2.

4. Smt.Gayathri, w/o Gurumurthy,
aged about 40 years, r/o No.12/1,
Seethapathi Agrahara,
Bangalore-2.

5. K.V.Seetharama Char, s/o.
Vedavyasa Char, aged about
64 years, r/o No.12, Seethapathi
Agrahara, Bangalore-2.

6. Dr.K.G.Raghavendra, s/o.
H.V. Gururajachar, aged about
70 years, Manager, SRS Math,
-do-

7. R.N.Nagaraj, s/o .R.V.
Narasimhamurthy, aged about
48 years, r/o No.14/1,
-do-

8. R.V.Ramakrishna, s/o R.Vyasara~~o~~,
aged about 71 years, r/o No.14/13,
Seethapathi -do-

9. M.Srinivasamurthy, s/o. Setu-
ramachar, aged about 50 years,
No.4, 4th Main, New Tharagupet,
Bangalore-2.

10. Archak Narayanachar, s/o Rama-
char, age 62, years, r/o No.6,
Seethapathi, -do-

11. R.V.Ramaswamy, s/o Venkata Rao,
aged about 46 years,
r/o. No.15, Seethapathi -do-

12. M.R.Krishnamurthy, s/o Narayana
Shanbog, aged about 64 years,
r/o No.17, 4th Main, New Tharagupet,
Bangalore-2.

... Respondents;

(Sri.Hanumantharayappa for R-3 to R-12)

Writ Petition is filed under Arts.226 and 227 of
the Constitution praying to quash the order dated
22-11-97 passed by the 2nd respondent (Annexure-F).

This petition coming on for hearing this day,
the Court made the following:-

Pursuant to the direction issued by this Court, an enquiry was held and found that the petitioner is engaged in the business of manufacture of soap nut powder even though he has not obtained necessary licence to do so. It is not disputed that the petitioner has obtained licence for the purpose of running oil mill and Pulveriser M/C only. It is further not disputed that instead of running oil mill the petitioner is manufacturing soap nut powder in the said premises.

2. It is contended by the petitioner that pulverization includes manufacture of soap nut powder also. This contention cannot be accepted for the simple reason that pulverization means ^{pulping} ~~powdering~~ of nuts for the purpose of producing oil whereas powdering the soap nut is not pulverization. Therefore, the petitioner was illegally running the Industry in manufacturing the soap nut powder without licence. Therefore, the Corporation was right in cancelling the licence that was granted in favour of the petitioner since the petitioner is admittedly manufacturing soap nut powder under a licence that has been granted for the purpose of running the oil mill and pulverization.

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3. The learned counsel for the petitioner contended that the ^{power to} grant or refusal to grant the licence is conferred on the Commissioner and it cannot be delegated to any other person. In the said view of the matter, it is contended that the Health Officer, has no power to revoke the licence. But on an earlier occasion, this Court has observed as follows:-

"For the reasons stated above, WP.12226 of 96 is allowed. The impugned endorsement dated 10-4-96 is quashed and the matter is remitted to the Commissioner or refer the matter to the person to whom the power of Commissioner has been delegated to dispose of the matter afresh after due notice to the petitioners in both the petitions within three months from today."

4. From the abovesaid observation it is clear that the matter can be considered either by the Commissioner or by the authority to whom power is delegated to the Commssioner. This Court in a decision in the case of Smt.Aktharunnisa & others -vs. The Corporation of City of Bangalore and others (ILR 1997 Karnataka 2303) ~~this Court~~ has held that under Sec.66 of the KMC Act, the Commissioner may delegate ^{his power} to any Officer of the Corporation subordinate to him any of his ordinary powers, duties and functions. This judgment has been confirmed by the Division Bench of this Court. In view of this Judgment and in view of the observation

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made by this Court, On an earlier occasion, there is
no substance in the contention of the petitioner the
Commissioner has no power to delegate his power to
any other Officer.

5. Accordingly, writ petition is rejected.

Sd/-
JUDGE

Hsf.

